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ABSTRACT

The effects of collective bargaining in higher education on quality faculty, leadership, and programs are assessed. It is suggested that labor contracts tend to function without much direct relation to quality, but that educational management has attempted to address quality as part of the labor contract. Much of the content of an agreement is devoted to routine and the process associated with salaries and job security, but provisions are made for committees devoted to peer review, including lists of criteria, and the required due process procedures. Implementing the labor contract leads to the establishment of a minimum acceptable performance, and anything beyond that basic expectation is a quality bonus for which there is no reward. In the academic community, scholarship is accomplished by time-defined criteria. It is suggested that time is a labor measure, not a professional quality determinant, and that attempts to define, proceduralize, and quantify the activities of higher education faculty has no empirical basis for validity. Collective bargaining tends to move an institution toward standardization in practically all aspects with the concomitant inhibition of diversity of instructional design and innovation. Typically, the collective bargaining process results in more direct control by central administration, especially in matters of the university budget. In a collective bargaining agreement, there is less administrative autonomy at the respective academic levels. Additionally, the style of leadership needed in the administration of an agreement or contract is often influenced by the milieu in existence during the negotiating process. Since an antagonistic, political environment is established, there is accompanying distrust. (SW)

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by

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COLLECTIVE BARGAINING IN HIGHER EDUCATION: ITS IMPACT UPON LEADERSHIP STYLES, QUALITY FACULTY AND PROGRAMS

Continued concern and divergence of opinion over the impact and/or value of collective bargaining for the higher education community are manifested in many different settings and contexts. The parameters associated thereto, including basic issues, both pragmatic and philosophical, are often obscured or avoided. Recent statements by Irving J. Spitzberg, the new general secretary of the American Association of University Professors, are cogent illustrations.[1] He said the AAUP would continue its "strong and effective program" on academic freedom and tenure, collective bargaining, the financial status of faculty members, and other matters with which the association has traditionally been concerned. He further stated that the proper role of faculty in university governance, among other things, would be quite important during the next 10 years of higher education. The lack of philosophical agreement among higher education constituencies on the merits of collective bargaining is also manifested by AAUP, which, in 1972, voted to pursue it actively, even though the membership was divided on the issue. Spitzberg recently stated that if we didn't have collective bargaining, another mechanism to assist the professoriate in coming to terms with the administration would emerge.

The very existence of the National Center for the Study of Collective Bargaining in Higher Education and the Profession at Bernard Baruch College is physical testimony to the interest in the collective bargaining process. Aaron Levenstein, Associate Director of the Center, commenting on the February, 1980 Yeshiva-Supreme Court decision, indicated that the unions would continue to function on the campuses, even though they may have lost a weapon previously available to them, namely the power of the National Labor Relations Board to require collective bargaining. He also indicated

that the unions would continue to operate on the basic premise of the National Labor Relations Act, namely, that the protection by law of the right of employees to bargain collectively facilitates better relations between employees and employers.

It is quite evident college faculty members will be gaining a significant role within the country's largest teachers union, the NEA. Terry E. Herndon, and other top officials have consistently said that organizing in higher education is one of their top priorities. During 1980-81, NEA has budgeted more than a million dollars to organize 25 new campus units and assist state affiliates. Additional funds have been earmarked to pay for the training of faculty members in contract negotiation, grievance procedures, and arbitration. In addition, NEA's own governance structure has been modified to include a standing committee on higher education. The American Federation of Teachers has a similar posture, although it has not committed as much money for the organizing of the higher education faculty constituency.

Myron Lieberman states that the advent of collective bargaining dispels the controversy over whether teaching is a profession, and the issue now, at best, is a semantic morass. He feels the issue has been definitely resolved by teacher bargaining, with the net result that teaching cannot be a profession in the traditional sense. This conclusion is contrary to his earlier pronouncements. His change in stance is due, primarily, because a teachers union cannot be guided by public interest considerations, but instead the union is guided by the interests of its members--an interest basically adverse to the interest of the students and the general public. Lieberman illustrates it this way: "Teachers frequently object to the proposition that their organizations are primarily oriented to teacher welfare. Nevertheless, this is not only the fact of the matter but it would probably be dangerous if it were not the case. For example, suppose a district desires to dismiss a teacher for alleged incompetence. If the teachers union were to be the judge instead of the teacher advocate, the teacher would be without effective representation. This would be a most undesirable outcome, since

effective representation is so important in our society. Paradoxically, teacher organizations adopted a public interest posture in fact as well as in rhetoric; at a rhetorical level there is no problem, because most teachers believe that what's good for teachers is good for the country."[2]

The following statements relate to the undergirding reality that surrounds professional negotiations/collective bargaining. A collective bargaining agreement is a labor contract, which, conceptually, goes much beyond the impressive rhetoric of statements of rights and responsibilities. Faculty-management contracts draw decision-making parameters which are not blurred or obscure. If the responsibility for the decision-making process was truly a shared undertaking, conflict resolution would be a continuous process.

In general, labor contracts tend to function without much direct relation to quality. The contract concept is neutral. The educational management or administration has attempted to address quality as part of the labor contract. Criteria that determine quality of performance for professionals vary from profession to profession; however, one thing is consistent among them, professional time spent on any single professional act has only a tangential relation to the quality of the performance. Labor contracts stipulate the conditions related to marketing time. To infer that qualitative guarantees can be built into labor contracts as a result of the concept that more equals better, as in the case of aspirin, is indeed questionable. Yet, this ironic assumption has prevailed in professional negotiations since their inception.

The negotiated agreements include provisions that sometime lose sight of their intended purpose. Much of the content of an agreement is devoted to routine and the process associated with salaries and job security. Provisions are made for committees devoted to peer review, including lists of criteria, and the required due process procedures. Some of the contracts include established percentage quotas, by academic units for promotions, as well as eligibility based upon seniority categories, and rank.

Other contracts have eliminated rank entirely in favor of seniority, but all contracts address the problems of salary, tenure, and retirement in disparate ways.

A potential danger inherent in complex procedural requirements for the surveillance of personnel is the preoccupation with process rather than substance. There is reason to believe there is an inverse relationship between the number of committees and reviews involved in the decision, and the quality of said decision. Although neither party of the labor contract is enamored with these outcomes, such outcomes are indicators of why contracts do not effectively include provisions for the accommodation of qualitative factors.

A critical factor is that the negotiated agreement is a legal contract, not only with established procedures, but also with concomitant assumptions not incorporated into the contract language. One of the most significant aspects is the continuous assertion of the adversarial relationship between the two parties of the contract. The dominant issue is that contracts resulting from so called professional negotiations are really no different from other labor contracts. Faculty time is being bargained for in a legally enforceable manner. The minimum provisions in the contract will eventually be applied in some manner, by somebody in the bargaining unit. And for many colleges, over a period of time, the minimum time expectations and commitments stated in the contract will become the institution's norm. This behavior should be expected as a natural consequence of the collective procedure and to believe otherwise is naive. Implementing the labor contract leads to the establishment of a minimum acceptable performance. Anything beyond that basic expectation is a quality bonus; a bonus for which there is no reward.

In the academic community, scholarship is accomplished by time defined criteria. Professional services, only in the most strained sense, have anything to do with time as prerequisite for quality performance. Time is a labor measure, not a professional quality determinent. Attempts to define, proceduralize, and quantify the activities

of higher education faculty has been an endeavor which has no empirical basis for validity. However, this phenomena is not limited to collective bargaining faculties. Other procedure bound institutions suffer equally, but the detail of contract language only serves to magnify some of the absurdities of the effort.

A basic premise in collective bargaining is the obligation of the whole to the individual member. The compromise that is effected when the collective is formed should never become lost in concept; because it permeates the application and administration of a contract in all respects. The individual becomes part of, and to a large extent, loses the ability to be absolved from, the conditions determined by the whole. Protestations to the contrary should be examined in the light of actual enforcement of the contract. Few contracts are concerned with provisions to delineate, promote, and provide incentives to outstanding faculty. Although some contracts include "good teaching" awards and other incentives, such components are usually peripheral, and often commensurate with fringe benefits and distributed similarly.

The four issues of fact surrounding collective bargaining and higher education just presented are not intended to startle or cause alarm for those not familiar with collective bargaining in higher education. The intent is to draw attention to the actual issues involved in collective agreements. The whole concept of bargaining for time and what realistic relationship, if any, exists with professional performance is in need of further exploration. Contracts tend to lock instructional models into place and raise fundamental questions about whether higher education can change sufficiently to accommodate the diverse student population that is now enrolling. Undoubtedly there is a need for additional data on the possible relationships between faculty time and instructional quality. A second concern is the ramifications associated with the overall tendency of collective bargaining to move an institution toward standardization in practically all aspects with the concomitant inhibition of diversity of instructional design and innovation.

There are some inherent elements of the faculty collective bargaining process which seem to be directly related to the quality issue. The premise of an adversarial climate places great emphases upon the strategies to be used with the proposal - counter proposal approach being dominant. Such a strategy precludes the sharing of information and/or priorities. Secondly, it often forces the administration to initially take a retrograde posture in order to establish a base line position from which compromise proposals will subsequently evolve. Certainly, the utilization of this strategy increases distrust between the negotiating parties. Few statements are ever accepted at face value and there is an incessant search for hidden agenda. True differences of opinion are seldom accepted upon merit, but rather are perceived as attempts to gain an advantage.

Spitzberg of AAUP is convinced that collective bargaining can coexist with traditional collegial decision-making and states it this way: "We can work with collective bargaining in terms of employment, and we have strong academic senates to assist and advise the presidents on the budget and curricula."[3] Dr. Robert Bryan, Vice President for Academic Affairs at the University of Florida, and Dr. John Coffelt, President of Youngstown State University, indicate strong disagreement with the latter statement. They conclude that the influence and operation of academic senates are significantly diminished with the existence of a collective bargaining contract. Although the union cannot in actuality control a senate, the agenda are much different. Such committees as academic freedom and tenure, professional relations and standards, and budget and finance conduct far less business. These committees now exist in somewhat of a quiescent state.

Another common issue relates to the possible impact upon tenure procedures or academic freedom. Dr. Bryan reports that the tenure recommendations at the University of Florida are essentially the same now as they were prior to the advent of collective bargaining. He describes it this way: "To put the matter bluntly, so

far collective bargaining has not eroded the standards of achievement necessary to secure tenure at the University. However, certain things have changed in the tenuring process. The record keeping at the departmental, college, and central administration levels has become more voluminous, more carefully administered, and more open to the general faculty. The oral agreement has been supplanted by the written record, promises and commitments are no longer casually made. Evaluations of individual faculty members are made with greater caution and prudence. In general, the paper flow has significantly increased and bureaucracy is clearly on the rise."[4] John J. Coffelt, President of Youngstown State University, takes a similar posture when he says, "Collective bargaining has, on many campuses, brought about long overdue corrections in a variety of personnel areas. It has forced improved personnel practices through the establishment of official personnel files, written records of personnel actions, and fairer grievance processes. I agree with Mr. Lieberman--collective bargaining forces management to be more careful, more thorough, more 'circumspect'."[5]

At the University of Florida, the best part of the contract, at least from Dr. Bryan's point of view is the disposition of grievances. The process seems to work efficiently, swiftly and effectively, with the winner in all instances being the grievant in that the case is settled promptly and definitely without the involvement of lawyers and courtrooms. The formal litigation process has seldom provided relief that is satisfactory to the participants, with said relief only coming after the expenditure of much time and money. The faculty union leadership must, if it is to protect and/or serve its constituency, support grievances filed by its members with little emphasis being placed upon the merits of the situation. As a consequence, the basic responsibility for quality standards shifts to the administration or said standards become compromised in the process.

One of the major objectives of collective bargaining is to increase the salaries of those who hold membership in the unit. The data on the extent to which that objective is achieved certainly is not conclusive and varies according to the source and/or perspective. The conclusions reached by the Public Service Research Council of Vienna, Virginia, is that the initiation of collective bargaining was not accompanied by more rapid than average growth in salary.[6] Dr. Robert A. Bryan, Vice President for Academic Affairs, University of Florida, states, "I cannot report to you with any degree of confidence that collective bargaining has helped to increase salaries in the collective bargaining unit at the University. My contention is vigorously contested by my union colleagues, but as a careful, long time observer and sometime participant in the legislative process, I have yet to be convinced that collective bargaining has brought higher salaries to our faculty."[7] Although salaries at Youngstown State University increased significantly after the formation of the union, it is impossible to determine the precise direct effect the bargaining process had on the salary increase. There is reason to believe that there was both a direct and indirect impact both at YSU and on the salary levels at other state universities in Ohio.

Typically speaking, the collective bargaining process results in more direct control by central administration, especially in matters of the university budget. In a collective bargaining agreement, there is less administrative autonomy at the respective academic levels, i.e. department, college or school, because the collective bargaining process strives to standardize personnel practices, procedures, and salary compensation. The bottom line in negotiations is conformity and uniformity. It is important to recognize this shift of power and authority. Since the process often focuses on economic issues, there is increasing pressure for strong central fiscal control. Previously decentralized actions on such matters as workload, teaching schedules, merit increases, expenditure of departmental travel funds,

promotion and summer teaching rotation, by virtue of being subject to the grievance process, now become central management decisions having university-wide applicability. The quality of such actions tend to deteriorate as they are removed from the respective academic units. President John J. Coffelt describes it this way, "I believe that collective bargaining marks the demise of the departmental structure as a strong enclave of professional expertise and autonomy. Inevitably, administrative power is withdrawn from the academic departments to a higher level. As it becomes necessary to protect administrative strategies, this power tends to become centralized in the hands of fewer and fewer administrators. This centralization tendency is paradoxical to the commonly advocated assertion that collective bargaining is a way to halt the drift of power toward administration. This same thrust toward centralization occurs on the Union side of the table. Negotiated agreements quickly become complex documents in which each paragraph, each sentence, indeed even the punctuation, becomes important."...."The litigiousness of the process is perhaps the most disheartening element of contract administration."[8]

The style of leadership needed in the actual administration of an agreement/contract is often dictated and/or results from the milieu that was in existence during the negotiating process. Since an antagonist, political environment is in fact established, there is the accompanying distrust. Often decisions are made and/or actions taken, not for the rationale or quality associated thereto, but rather is the action grievable under the provisions of the contract. It is important to remember that the overriding concern for a balance of power as it relates to employment conditions and job security will set operational priorities. Promotion decisions become more political with a reduced role for the senior faculty and middle administrators. The reliance upon salary schedules precludes the use of merit pay as an incentive. Typically, the individual faculty member has a stronger voice in the teaching assignment, and the contract often includes a provision as to the office hours and other job

expectations such as the number of advisees that may be assigned. There is a tendency to expect a continuance of the spuriousness of the information, incomplete or inaccurate data, proposals and counter proposals, compromise-challenge and evasiveness in those areas not specifically delineated in the agreement. As a consequence, it is easy for leadership to deteriorate into a 3-M/3-D syndrome, i.e. Mechanistic Manager who Monitors Detail via Documentation from a Defensive posture. Although such an approach can be accommodated by the 3-D theory of managerial effectiveness proposed by W. J. Reddin, it leaves much to be desired.

Certainly the Yeshiva (NLRB vs Yeshiva University, 1980) case, which concluded that faculty members at that mature private university were managerial rather than rank-and-file employees and therefore excluded from protection under the NLR Act, is a very interesting development. The application of the Supreme Court's decision to other fact situations is far from clear. Thus the Court's opinion was viewed by some as a blow to collective bargaining, and by others as just the beginning of another long round of litigation. It appears that collective bargaining as an academic governance model in higher education will continue to be utilized. However, its use by all institutions is neither desirable nor practical. Undoubtedly, additional institutions will be adopting it as economic and demographic conditions impact upon enrollments, salaries, job availability and security, and, of course, the ability of the institutions to respond in a defensible and appropriate manner to the aforementioned conditions. Hopefully, past experiences, current thought, legal decisions, and laws will lead to a knowledge base that makes the collective bargaining process more adaptable to institutions of higher education.

[1]Beverly T. Watkins, "Spitzberg Selected to Be AAUP Chief; Will Continue Its Effective Program," The Chronicle of Higher Education, June 16, 1980.

[2]Myron Lieberman, "Eggs That I Have Laid: Teacher Bargaining Reconsidered," Phi Delta Kappan, February, 1979, pp. 415-419.

[3]Beverly T. Watkins, op. cit.

[4]Dr. Robert A. Bryan, "The Impact of Collective Bargaining at the University of Florida," speech made on September 26, 1978, p. 6.

[5]John J. Coffelt, "Collective Bargaining--Problems and Prospects," speech made at Memphis State University in 1977, p. 23.

[6]Public Service Research Council, "The Salary Effects of Unionism and Compulsory Bargaining Laws," Phi Delta Kappan, February, 1979, p. 419.

[7]Dr. Robert A. Bryan, op. cit., p. 4.

[8]John J. Coffelt, op. cit., pp. 20-21.